

REMARKS

The objections to the claims, their rejections under 35 USC 112, second paragraph, their rejections under 35 USC 101, and other editorial matters are attended to by amendments above. The amendments are non-narrowing and, therefore, do not raise any Festo-like limitations even if in response to statutory requirements.

The rejections under 35 USC 102 for anticipation by the cited Imran patent is traversed by Jepson or improvement formulation of the claims to confirm their original limitation to gastric band structure.

The terms in both the preamble describing the prior art and those elements constituting the improvement are substantive claim limitations. 37 CFR § 1.75(e). *Wells Mfg. Corp. v. Littlefuse, Inc.*, 192 USPQ 256 (7t Cir. 1976).

The Imran patent, in contrast, only discloses stomach prosthesis structure.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*

The identical invention must be shown in as complete detail as is contained in the ... claim. *MPEP* 2131.

Therefore, the rejection cannot stand.

The rejection should not be converted into one under 35 USC 103 for obviousness from the Imran patent, either, because the different stomach prosthesis structure of the patent does not suggest the claimed gastric band, either. The prosthesis of the patent replaces the stomach. The band of the claim goes around only part of the stomach or, as the prosthesis does not, the esophagus.

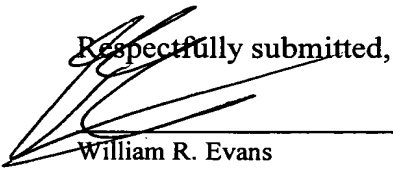
Further, the Imran patent does not show the liquid filled chambers communicating with each other, as in claim 1, nor responsive to a detected pressure, as in claim 2.

The reservoir of the Imran patent is not comparable to the reservoir claimed. In the patent, the reservoir 58 contains material that can be injected into the prosthesis. In the claims, it is for restriction control.

The sensors 53, 54 of the patent cannot be compared to those of claims 10, which are for eating detection, since they are in the stomach.

Still further distinctions will be apparent on the reconsideration and allowance requested.

Respectfully submitted,



William R. Evans
c/o Ladas & Parry LLP
26 West 61st Street
New York, New York 10023
Reg. No. 25858
Tel. No. (212) 708-1930